

AMENDED IN SENATE AUGUST 28, 2006

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 22, 2006

AMENDED IN ASSEMBLY APRIL 26, 2006

AMENDED IN ASSEMBLY APRIL 17, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2992**

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**Introduced by Assembly Member Evans**

February 24, 2006

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An act to add Sections 10761.5 and 10761.7 to the Public Contract Code, relating to public contracts.

### **LEGISLATIVE COUNSEL’S DIGEST**

AB 2992, as amended, Evans. California State University.

The California State University Contract Law requires the Trustees of the California State University to obtain specified financial information and the completion of a standard questionnaire with respect to prospective bidders for contracts estimated to exceed the value of a minor capital outlay project, as described. Existing law requires the questionnaire and financial statement to be verified under oath, as described. Existing law also requires the trustees to award the contract for the public works project to the lowest responsible bidder, as specified.

This bill would require the trustees to give notice to all prospective bidders for contracts that exceed the value of a minor capital outlay project, as specified, that bidders will not be deemed responsible

bidders unless all mechanical subcontractors listed to perform work that exceeds \$1,000,000, submit answers to questions contained in a standard form of questionnaire and a financial statement including a complete statement of the prospective mechanical subcontractor's financial ability and experience in performing public works projects and are listed on the trustees' registry of qualified and responsible mechanical subcontractors, as created by the trustees, for 30 days prior to the bid opening subject to specified requirements. *This bill would authorize the trustees to waive the requirement that a subcontractor is to be listed on the registry of qualified and mechanical subcontractors, as specified.* This bill would require the subcontractor to verify the questionnaire and financial statement under oath, as described. In its application to local agencies, this bill would create a state-mandated local program.

This bill makes findings regarding the necessity of this requirement in order to further the objectives of Public Contract Law.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 10761.5 is added to the Public Contract
- 2 Code, to read:
- 3 10761.5. The Legislature hereby finds and declares all of the
- 4 following:
- 5 (a) The establishment by the California State University of a
- 6 uniform system to evaluate the ability, competency, and integrity
- 7 of bidders on public works projects pursuant to Sections 10760
- 8 and 10761 is in the public interest and has resulted in the highest
- 9 quality of construction by general contractors for the lowest
- 10 costs, and is in the furtherance of the objectives stated in Section
- 11 100.
- 12 (b) The application of Sections 10760 and 10761, when
- 13 applied to subcontractors performing on California State

University projects as the prime contractor, has also resulted in the highest quality of construction at the lowest cost and has also furthered the objectives in Section 100.

(c) Section 1103 defines a “responsible bidder” as a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract, and Section 4107 authorizes a prime contractor performing a public works project to substitute a subcontractor under specified circumstances, including when the awarding authority determines that a listed subcontractor is not a responsible contractor.

(d) Therefore, the Legislature finds and declares that, in order to further the objectives of Section 100 and ensure that only responsible subcontractors perform work on public works projects at the California State University, it is in the best interest of this state to extend the prequalification process required under Sections 10760 and 10761 to all subcontractors.

SEC. 2. Section 10761.7 is added to the Public Contract Code, to read:

10761.7. (a) (1) The trustees shall, on contracts the estimated cost of which exceeds the value of a minor capital outlay project pursuant to Section 10108, give public notice to all prospective bidders that bidders will not be deemed responsible bidders unless all mechanical subcontractors listed to perform work that exceeds one million dollars (\$1,000,000) have been listed on the trustees’ registry of qualified and responsible mechanical subcontractors for at least 30 days prior to the bid opening.

(2) *The trustees may waive the requirement that a subcontractor is to be listed on the trustee’s registry of qualified and responsible mechanical subcontractors, as set forth in paragraph (1), if less than three bidders on the trustees’ registry of qualified and responsible mechanical subcontractors provide notice to the trustees of the bidders’ intent to submit bids prior to the close of the pre-bid conference.*

~~(b) The standard questionnaire and financial statement established by the trustees pursuant to subdivision (a) shall. In order to be listed on the trustees’ registry of qualified and responsible mechanical subcontractors, the trustees shall require answers to questions contained in a standard form of~~

1 *questionnaire and financial statement. The standard*  
2 *questionnaire and financial statement shall* contain, at a  
3 minimum, the same general elements contained in the standard  
4 questionnaire and financial statement required of prospective  
5 bidders pursuant to Section 10760. This subdivision shall not  
6 preclude the trustees from requiring additional information  
7 specific to subcontractors in the standard questionnaire and  
8 financial statement.

9 (c) When completed, the questionnaire and financial statement  
10 shall be verified under oath by the prospective subcontractor in  
11 the manner in which pleadings in civil actions are verified.

12 (d) The trustees shall establish and maintain a public registry  
13 of mechanical subcontractors who have filed with the trustees a  
14 standard prequalification questionnaire and financial statement  
15 and have been deemed by the trustees to be responsible bidders,  
16 as defined in Section 1103. Mechanical subcontractors seeking to  
17 perform work on projects pursuant to this section shall be  
18 required to update their questionnaires at least once every 12  
19 months pursuant to this section.

20 (e) Nothing in this section shall be interpreted to prevent the  
21 prospective bidder from substituting a subcontractor pursuant to  
22 Section 4107 in the event the trustees determine a listed  
23 subcontractor is not a responsible contractor.

24 SEC. 3. No reimbursement is required by this act pursuant to  
25 Section 6 of Article XIII B of the California Constitution because  
26 the only costs that may be incurred by a local agency or school  
27 district will be incurred because this act creates a new crime or  
28 infraction, eliminates a crime or infraction, or changes the  
29 penalty for a crime or infraction, within the meaning of Section  
30 17556 of the Government Code, or changes the definition of a  
31 crime within the meaning of Section 6 of Article XIII B of the  
32 California Constitution.